

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
September 21-25, 1998

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
9-22	EX	74/621,510	Piter Societá a Responsa-bilitá Limitata	Seeherman Hohein Wendel*	2(e)(3)	Refusal Affirmed		"C.M.J. CALIFORNIA MOTOR JACKET" (and design) [clothing, namely, wind-resistant jackets, neckerchiefs, jackets, trousers, waistcoats, jeans, vests, gloves, socks, tank tops, blousons, t-shirts, stockings, bandannas, head bands, pants, belts, scarves, skirts, head wear, and footwear]		Lawrence	No
9-22	EX	74/695,276	International Data Group, Inc.	Seeherman Hairston Walters*	2(e)(1)	Refusal Affirmed		"WEB COMMERCE" [magazines, magazine supplements, catalogues, manuals, brochures, pamphlets, guides, newsletters, journals and books in the fields of computers, on-line services, high technology, communications, and information services; providing on-line magazines, etc., in the fields of computers, on-line services, high technology, communications and information services]		Krisp	No

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

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9-22	OPP	100,233	First Financial Management Corp. v. Postal Buddy Corp.	Simms* Seeherman Hairston	2(d); counterclaim asserting abandonment	Opposition Sustained; Counterclaim for Cancellation Denied	"OPINIONGRAM" [telegraph transmission and communications services, including the sending of messages by customers to public officials]	"OPINIONGRAM" [providing computer terminals for use by the public to create interactively recommended opinion correspondence and to recommend selected policy and decision makers to receive such correspondence]			No
9-22	EX	75/039,627	Valspar Corp.	Quinn Walters* Wendel	2(d)	Refusal Affirmed (as to each of the cited registrations)		"VITRAGARD" [interior and exterior coatings in the nature of paint]	"VITRALITE" (in stylized lettering) [enamels, varnishes, stains, fillers]; "VITRA-TILE" [paints, varnishes and enamels]; "VITRALON" [enamels, primers and texture coatings for metal surfaces and coatings and linings for metal containers]; "VITRA-SHIELD" [stipple finish for interior use]; "VITRASIL" [silicone enamel for exterior use]	Striegel	No
9-22	EX	74/621,412	Casino Data Systems	Simms* Hanak Walters	2(d); 2(e)(1)	Refusal Reversed		"DATAPORT" [computer hardware for use in a gaming environment, namely, a microcontroller for monitoring a bank of slot machines in a casino]	"DATAPORT" [modems]	F. Smith	No

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9-23	CANC	24,510	International Association of Sufism v. Nader Angha	Hanak Quinn Hairston*	fraud	Petition to Cancel Denied		design mark [educational services, namely, providing courses of Islamic Sufism instruction, seminars, lectures, workshops, at all educational levels]			No
9-23	OPP	96,065	Celestial Seasonings, Inc. v. J. L. Franklin & Co.	Simms* Hohein Walters	2(d) (family of marks)	Opposition Sustained	"ZINGER," "RED ZINGER," "LEMON ZINGER," "ORANGE ZINGER," "WILD BERRY ZINGER," "RASPBERRY ZINGER," and "ORANGE MANGO ZINGER," comprising a family of "ZINGER" marks [various tea products]	"SORBETTO ZINGER" [slush shake made with Italian ice and carbonated beverages]			No
9-24	EX	74/607,594	Tomy America, Inc.	Hanak Hairston* Chapman	2(d)	Refusal Affirmed		"BIG FUN" [toys for preschool or kindergarten age children, namely, plush toys, remote or radio controlled action toys which move and make sounds, push or pull toys which move and make sounds, spring actuated action toys which move or make sounds, multiple activity toys and building blocks, board games and manipulative and jigsaw puzzles, ride-on toys and picture and image making toys, etc.]	"BIG FUN SOUNDS" [children's illustrated storybooks combined with electronic sound-emitting devices, sold as units, for the purpose of enabling children to play sound effects and music corresponding to the contents of said books]	Kastriner	No

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9-24	EX EX	74/412,727 74/412,841	William F. Wielinski	Simms Cissel* Hairston	2(a) [false suggestion of a connection]; 2(e)(1) [merely descriptive]; 2(e)(1)[deceptively misdescriptive (as to Class 12 goods)]; whether the matter asserted for registration indicates origin in a single source; whether the matter asserted for registration is merely ornamental (as to Class 25 goods)	Refusal Affirmed only with respect to goods in Class 16 and, with respect to those goods, only on Sec. 2(e)(1) [merely descriptive] grounds; otherwise, Refusal Reversed		"DIAMOND T" (and design) [trucks, truck parts, and accessories (in Class 12)]; "DIAMOND T" [structural parts for trucks (in Class 12); printed periodical magazines (in Class 16); t-shirts (in Class 25)]		Stine	Yes
9-25	EX	74/623,599	Meridian, Inc.	Walters* Chapman Wendel	Genericness	Refusal Affirmed		"STACKABLE STORAGE SYSTEM" [office furniture]		Lykos	No

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9-25	OPP	96,405	Bridgestone/ Firestone, Inc. v. Interco Tire Corp.	Cissel Hanak Hohein*	de jure functionality; acquired distinctiveness [under Sec. 2(f)]	Opposition Sustained (but only on the grounds of lack of acquired distinctiveness)		configuration of the tread design of a tire asserted as a trademark for applicant's tires			No
9-25	EX	75/023,135	Enersyst Development Center	Seeherman Hanak Walters*	2(e)(1)	Refusal Affirmed		"AIR FRYER" [ovens, namely, commercial cooking impingement and convection ovens]		First	No
9-25	EX (R)	74/658,746	Auto Parts Club, LLC	Cissel Seeherman Hairston*	2(e)(1) [genericness]	Request for Reconsideration Denied [Refusal Affirmed]		"AUTO PARTS CLUB" [discount wholesale and retail store services in the field of automotive parts]		Masiello	No

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